

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JOSEPH M. CAMPAU and DEPARTMENT OF THE AIR FORCE,  
PETERSON AIR FORCE BASE, Colo.

*Docket No. 96-2403; Submitted on the Record;  
Issued September 2, 1998*

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DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,  
BRADLEY T. KNOTT

The issue is whether appellant established that he sustained recurrences of disability causally related to the June 26, 1990 work injury.

The Board has reviewed the case record and finds that appellant has failed to meet his burden of proof in establishing a causal relationship between his accepted injury and recurrences of disability on April 4 and November 11, 1994.

Under the Federal Employees' Compensation Act,<sup>1</sup> an employee who claims a recurrence of disability due to an accepted employment-related injury has the burden of establishing by the weight of the substantial, reliable, and probative evidence that the recurrence of the disabling condition for which compensation is sought is causally related to the accepted employment injury.<sup>2</sup> As part of this burden the employee must submit rationalized medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the current disabling condition is causally related to the accepted employment-related condition,<sup>3</sup> and supports that conclusion with sound medical reasoning.<sup>4</sup>

Section 10.121(b) provides that when an employee has received medical care as a result of the recurrence, he or she should arrange for the attending physician to submit a medical report covering the dates of examination and treatment, the history given by the employee, the findings, the results of x-ray and laboratory tests, the diagnosis, the course of treatment, the physician's

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<sup>1</sup> 5 U.S.C. §§ 8101-8193 (1974).

<sup>2</sup> *Dennis J. Lasanen*, 43 ECAB 549, 550 (1992).

<sup>3</sup> *Kevin J. McGrath*, 42 ECAB 109, 116 (1990).

<sup>4</sup> *Lourdes Davila*, 45 ECAB 139, 142 (1993).

opinion with medical reasons regarding the causal relationship between the employee's condition and the original injury, any work limitations or restrictions, and the prognosis.<sup>5</sup>

Thus, the medical evidence must demonstrate that the claimed recurrence was caused, precipitated, accelerated, or aggravated by the accepted injury.<sup>6</sup> In this regard, medical evidence of bridging symptoms between the recurrence and the accepted injury must support the physician's conclusion of a causal relationship.<sup>7</sup> Further, neither the fact that appellant's condition became apparent during a period of employment nor appellant's belief that his condition was caused by his employment is sufficient to establish a causal relationship.<sup>8</sup>

In this case, appellant, then a 44-year-old production supervisor, filed a notice of traumatic injury on June 28, 1990, claiming that he hurt his back while pulling himself into an aircraft during a loading exercise. The Office of Workers' Compensation Programs accepted the claim for a lumbosacral strain, based on the reports of Dr. Milton C. Dewhirst, appellant's attending physician who is Board-certified in family practice, and paid appropriate compensation. Appellant returned to work with lifting restrictions.

On April 13, 1994 appellant filed a notice of recurrence of disability, claiming that while walking down a hall on his way to a meeting at work he felt a twinge in his back; the pain gradually increased until he could not walk.<sup>9</sup> Appellant explained that this incident was related to the original injury and referred to a September 23, 1991 letter from Dr. James Sceats, Jr., a Board-certified neurosurgeon to whom Dr. Dewhirst had referred appellant.

On November 20, 1994 appellant filed a second notice of recurrence of disability, claiming that he "felt immediate pain" in his lower back when he sneezed while taking down a curtain rod at home. Appellant noted that he had had multiple recurrences of the original back problem and that two other recurrences had been improperly filed as original injuries.

In support of his claim, appellant submitted a November 21, 1994 report from Dr. Dewhirst, who related a history of appellant's episodes of back pain and stated that appellant had experienced exacerbation and remissions of lumbosacral pain due to myofascial strain and spasm. The results of a magnetic resonance imaging scan administered on November 19, 1994 were also submitted.

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<sup>5</sup> 20 C.F.R. § 10.121(b).

<sup>6</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.2 (June 1995).

<sup>7</sup> *Leslie S. Pope*, 37 ECAB 798, 802 (1986); cf. *Richard McBride*, 37 ECAB 748, 753 (1986).

<sup>8</sup> *Kathryn Haggerty*, 45 ECAB 383, 389 (1994).

<sup>9</sup> On July 28, 1988 appellant filed a notice of traumatic injury, claiming that while, walking down a hallway at work, he experienced sharp pain in his lower back, which progressively became worse, impairing his ability to sit, walk, or stand. Appellant added that the incident might have been a recurrence of a previous injury. This claim, A12-0101729, was denied. On August 12, 1991 appellant filed a notice of traumatic injury, claiming that he hurt his back while pulling on his boots. This claim, A12-124496, was also denied. Appellant stated that the 1991 claim should have been filed a notice of recurrence and not as a new claim.

On February 7, 1995 the Office denied the claim on the grounds that the medical evidence failed to establish a causal relationship between the 1990 injury and the 1994 recurrences. The Office noted that the accepted 1990 injury had resolved, that neither of the 1994 incidents described by appellant were a spontaneous return of his back condition requiring treatment or causing disability, and that appellant had failed to submit evidence showing that the recurrences of disability were caused, precipitated, accelerated, or aggravated by the original injury.

Appellant timely requested an oral hearing, which was held on October 17, 1995. Appellant testified that two claims he had filed in 1984 and 1985 for back problems had been accepted, but a July 1988 claim was disallowed, as were three other claims in 1990 and 1991.

In a decision dated April 29, 1996, the hearing representative denied the claim on the grounds that the medical evidence was insufficient to establish a causal relationship between the claimed recurrences of disability and the 1990 work injury. The hearing representative noted that both physicians indicated that appellant's back complaints were due to specific incidents but did not explain how the April and November 1994 incidents were related to the 1990 injury.

The Board finds that the medical reports from Drs. Dewhirst and Sceats are insufficient to establish the requisite causal relationship between the 1994 incidents involving back pain and the accepted 1990 injury.

While Dr. Dewhirst provided a complete history in his November 21, 1994 report of appellant's back problems dating back to 1984 and his treatment of appellant in 1990, the physician offered no opinion on the causal relationship of the specific 1994 incidents to the lumbosacral strain appellant sustained in 1990. All Dr. Dewhirst stated was that appellant had experienced exacerbation and remission of lumbosacral pain due to myofascial strain and spasm. Such an opinion is insufficient to establish causal relationship.<sup>10</sup>

In his November 10, 1995 report, Dr. Dewhirst stated that appellant's "recurrent exacerbation of low back pain," whether termed acute, lumbosacral strain and spasm, or myofascial strain syndrome, or whether provoked by personal or work-related events, are "directly related to, caused by, and stem from his original work-related injury June 26, 1990." Dr. Dewhirst offered no medical rationale for this general statement. Nor did he explain how walking down a hallway or sneezing could cause a spontaneous return of the disabling 1990 work injury. Thus, his opinion is insufficient to establish the requisite causal relationship.<sup>11</sup>

In his September 19, 1990 report, Dr. Sceats also related a complete history of appellant's back problems, starting in 1982, and diagnosed recurrent myofascial strain injury. In follow-up reports dated October 29 and December 4, 1990, Dr. Sceats stated that appellant's

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<sup>10</sup> See *Rosie M. Price*, 34 ECAB 292, 294 (1982) (finding that the mere occurrence of an episode of pain during the workday is not proof of an injury having occurred at work; nor does such an occurrence raise an inference of causal relationship); *Max Haber*, 19 ECAB 243, 247 (1967) (same).

<sup>11</sup> See *Margarette B. Rogler*, 43 ECAB 1034, 1039 (1992) (finding that a physician's opinion that provides no medical rationale for its conclusion on causation is of diminished probative value).

myofascial strain syndrome often had an intermittent course of exacerbation and remission and that appellant had good days and bad days.

Dr. Sceats treated appellant on July 22, 1991, noting that he was “doing well,” and stated in a September 23, 1991 report that appellant’s myofascial lumbar strain injury, which was causing increased pain, would be “a persistent problem forever” and appellant would have recurrent episodes of low back pain and spasm, sometimes even without a specific injury event. Finally, Dr. Sceats stated in an October 30, 1995 report that current exacerbation of appellant’s myofascial strain syndrome were a continuation of his previous problem and that the natural history of this process was exacerbation and remission with persistent, intermittent episodes.

While Dr. Sceats indicated that the flare-ups of appellant’s back pain were related to his “previous problem,” he provided no medical rationale for this statement beyond a vague reference to “natural history.” He also failed to discuss the specific 1994 incidents in terms of the 1990 injury or to consider the effect of the previous back problems appellant experienced in the 1980s. As the Board has held, the mere existence of a preexisting condition does not establish a causal nexus for all subsequent injuries involving that condition.<sup>12</sup> Thus, the fact that appellant sustained a work-related back injury in 1990 does not mean that all subsequent exacerbation is related to that specific injury or that all recurrences of back pain flow from that injury.

The Office informed appellant of the deficiencies in his claim and explained the scope of the medical evidence he would need to submit to substantiate that he was entitled to compensation for the 1994 incidents. However, he failed to submit the medical evidence necessary to establish a causal connection between his recurrences of back pain in 1994 and the accepted 1990 injury. Therefore, the Board finds that the Office properly denied his claim.<sup>13</sup>

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<sup>12</sup> *John Watkins*, 47 ECAB \_\_\_\_ (Docket No. 94-1615, issued May 17, 1996).

<sup>13</sup> *See Jose Hernandez*, 47 ECAB \_\_\_\_ (Docket No. 94-1089, issued January 23, 1996) (finding that despite a request from the Office, appellant failed to submit a rationalized medical opinion showing that the claimed recurrence was related to his employment injury); *see also Connie Johns*, 44 ECAB 560, 570 (1993) (finding the medical evidence insufficient to establish that appellant had any disability causally related to the residuals of her accepted back condition).

The April 29, 1996 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, D.C.  
September 2, 1998

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member

Bradley T. Knott  
Alternate Member